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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,190	11/20/2003	David V. Rodgers	D5434	9820
30409	7590	11/10/2005	EXAMINER	
INTERNATIONAL ENGINE INTELLECTUAL PROPERTY COMPANY			HOANG, JOHNNY H	
4201 WINFIELD ROAD			ART UNIT	
P.O. BOX 1488			PAPER NUMBER	
WARRENVILLE, IL 60555			3747	

DATE MAILED: 11/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,190

Applicant(s)

RODGERS, DAVID V.

Examiner

Johnny H. Hoang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/18/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4-29, and 31-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Goode et al (US 6,085,725).

Regarding claim 1, the reference of Goode et al discloses the throttle response selection system including the following subject matters:

an internal combustion engine having a fueling system (35) for fueling the engine (col. 3, lines 52-59);

one or more sources providing data relevant to operations of the apparatus that are external to the engine but potentially influential on fueling of the engine (see Figs. 1-3); and

an engine control system (60) comprising a processor (66) for processing data according to an all-speed governing strategy for controlling the fueling system (35) to develop all-speed governed fueling data that sets engine fueling when a data input to the engine control system (60) from the one or more sources discloses no need to influence engine fueling, but when the data input from such one or more sources discloses a need to influence engine fueling, that data input causes engine fueling to be set by a strategy other than the all-speed governing strategy (Figs. 2-4B; col. 5, line 1 through col. 8, line 28).

Regarding claim 2, the reference of Goode et al further teach the vehicle 22 is propelled by prime mover 28 in the form of engine 30 (col. 3, lines 21-32).

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Regarding claim 4, see Figs. 4A and 4B.

Regarding claims 5-9, as discussed in claim 1.

Regarding claims 10, and 11, as discussed in claims 1, and 9.

Regarding claims 12-15, as discussed in claim 1.

Regarding claims 16-29, and 31-46, as discussed in the apparatus of claims 1-15.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goode et al in view of Isaac et al (US 6,016,459).

The reference of Goode et al discloses the claimed invention except for one or more sources comprise one or more of an ABS system; a traction control system; and a transmission through which the engine drives driven ones of wheels of the vehicle. The reference of Isaac et al teaches an engine net output torque data signal maybe used to provide better definition for transmission shift points, particularly automatic transmission shift points. Such a signal may also be useful input to a vehicle traction control system (col. 1, lines 36-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included an ABS system; or a traction control; or a transmission through which the engine drives driven ones of the wheels of the vehicle to the reference of Goode et al as taught by Isaac et al in advance for improving engine and vehicle performance.

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Response to Arguments

5. Applicant's arguments filed August 31, 2005 have been fully considered but are mood in view of the new group(s) of rejection. **Claims 1-46 are pending.**

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takahashi (US 6,854,523 B2), and Middleton et al (US 5.553.589).


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnny H. Hoang whose telephone number is (571) 272-4843. The examiner can normally be reached on Monday - Thursday (7:00Am-5: 30Pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHH
November 3, 2005

Johnny H. Hoang
Examiner
Art Unit 3747


Andrew M. Dolinar
Primary Examiner